19/42

File No. Cotton Contract II/42

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

F.3/L Rules and Notifications under the Bombay Cotton Contracts control Act, 1932

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Std. Sectt. Slip 24 B a.

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8072
2/8700.

R.I.No.223-Confl.
dated 12-6-42.

Office of the R.L.A.

The proposed amendments of the By-laws are legion and highly technical, and since the case is marked very urgent, only a very cursory examination from the legal point of view has been possible. Subject to the tentative remarks which follows, the amendments appear to be generally in order.

2. (1) By-law 1, definition of "the Hedge Contract":- This may be recast as " 'Hedge Contract' means the "Indian Cotton Contract" as specified in By-law 53".

(2) It is not clear whether the proposed deletion of By-law 5, and consequential amendments of By-law 7 etc., affect in any way the rights and procedure in regard to the Delivery Contracts. If they do, Finance Department should consider whether this is intended.

(3) It is likewise not clear from the proposed by-law 31(1) in substitution of the present By-law 31 whether the present Rates Committee for the Delivery Contract is sought to be abolished and replaced by the Survey Committee. If so, the proposed By-law 31(1) should clearly speak of 'Hedge or Delivery Contracts', as does the present By-law 31. If it is not intended to affect the present Rates Committee for the Delivery Contracts, the By-law 31 should be retained and amended to omit the words "Hedge or", and the proposed By-law 31 should be numbered by-law 31A. Finance Department should examine all the other amendments with a view to seeing whether they interfere with the present scheme of working Delivery Contracts, and if they do, whether they are intended to do so.

(4) Proposed By-law 82A purports to affect outstanding contracts, and settle them under the x emergency powers of the Board. From the legal point of view it will not be safe to regard the proposed By-law as intra vires section 6 of the Bombay Cotton Contracts Control Act 1932, until that section is first amended on the lines of draft sub-section (2A) to

section 5 of the Bombay Securities Contracts Control Act 1925, (See R.L.A's opinion No.4842 dated the 12th June 1942, and section 2 of the draft Bill accompanying that opinion).

(5) The "Explanation" to proposed By-law 58A should be shown as "Example".

(6) By-laws 154 to 156:- The proposed deletion appears to be on the footing that no tender on Railway terms or by railway receipts is permissible through the clearing House whether the Contract is Hedge Contract or Delivery Contract. Finance Department should verify if this is correct, and whether the deletion is not inconsistent with By-laws 89 and 92 which contemplate a Railway receipt to be a valid tender.

Sd. P. N. Moos,
11/7.
Remembrancer of Legal Affairs.

U.R. to F.D.,No.5672A, dated the 11th July 1942.

MRP.
2/5/56.